HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7227 PCB CMAS 11-06 Affordable Housing
SPONSOR(S): Economic Affairs Committee; Community & Military Affairs Subcommittee, Grant
TIED BILLS: **IDEN./SIM. BILLS:** HB 757

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Community & Military Affairs Subcommittee	8 Y, 3 N	Duncan	Hoagland
1) Economic Affairs Committee	14 Y, 0 N, As CS	Duncan	Tinker

SUMMARY ANALYSIS

The Florida Housing Finance Corporation (FHFC) is the state entity primarily responsible for encouraging the investment of private capital in residential and rental housing and stimulating the construction and rehabilitation of affordable housing in Florida. The FHFC administers a number of multifamily and single family housing programs that help local governments assist Floridians in obtaining safe, decent affordable housing.

The State Apartment Incentive Loan (SAIL) Program was created to provide first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide affordable housing to very-low-income persons.

The bill provides that not less than 70 percent of the moneys in the SAIL Program Fund in each calendar year must be awarded for constructing new affordable rental housing developments, which the primary source of financing is an allocation of tax exempt private activity bonds issued by the FHFC or by a local or regional agency pursuant to Part VI of ch. 159, F.S.

Development projects located outside of a 2.5 mile radius of a Florida Housing Guarantee Fund Development, which have a short term subordinate mortgage issued by the FHFC are eligible to receive subordinate loan financing through the FHFC. Subordinate loan financing awarded by the FHFC must occur using the process established by law.

The FHFC is directed to generate and distribute an estimate of the total amount of State Apartment Incentive Loan Fund moneys available in the calendar year in which the subordinate loan financing is awarded. The FHFC must provide this information prior to the receipt of applications. The amount of program income, including principal and interest must be included in the moneys available to be awarded. A rank ordered list of application selected to receive subordinate loan financing must be presented to the FHFC's Board of Directors.

The bill also provides that financial beneficiaries, defined as any principal of a developer or general partner of an applicant, of any development financed in part by the Guarantee Fund that has been foreclosed or is in foreclosure; or has defaulted on a subordinate mortgage on or after July 1, 2011, may not participate in the FHFC's programs for 3 years and must receive approval from the FHFC's board of directors before they may participate in such programs.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Housing Finance Corporation (FHFC)[1] is the state entity primarily responsible for encouraging the investment of private capital in residential and rental housing and stimulating the construction and rehabilitation of affordable housing in Florida. The FHFC administers a number of multifamily and single family housing programs that help local governments assist Floridians in obtaining safe, decent affordable housing.

<u>The State Apartment Incentive Loan Program</u>

The State Apartment Incentive Loan (SAIL) Program was created to provide first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide affordable housing to very-low-income persons.[2] Program funds are distributed over successive 3-year periods that meet the need and demand for very-low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available at the beginning of each 3-year period. However, at least 10 percent of the program funds distributed during a 3-year period must be allocated to each of the following categories[3] of counties:[4]

- Counties that have a population of 825,000 or more.
- Counties that have a population of more than 100,000 but less than 825,000.
- Counties that have a population of 100,000 or less.

The FHFC has the power to underwrite and make state apartment incentive loans or loan guarantees to sponsors provided:

- The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended.
- The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which must be adjusted for family size; or
- The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended.

The SAIL Program provides low-interest loans on a competitive basis as gap financing to leverage mortgage revenue bonds or competitive Low Housing Income Tax Credit resources to secure the full financing needed to construct or rehabilitate affordable rental units for very-low-income families. SAIL Program funds may also be used to reduce the debt on new or existing properties to make a small portion of units in each development affordable to extremely-low-income residents. [5]

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[1] The Florida Housing Finance Corporation (FHFC) was created as a public corporation within the Department of Community Affairs (DCA). However, the FHFC is a separate budget entity and is not subject to the control, supervision, or direction of DCA. Section 420.504, F.S.

[2] Section 420.5087, F.S.

[3] Categories are determined by using population statistics published in the most recent edition of the Florida Statistical Abstract. Section 420.5087(1), F.S.

[4] *Id*.

[5] Florida Housing Finance Corporation, *2010 Annual Report*, State Apartment Incentive Loan, March 2011, p.7, *available at* http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf.

During 2010, approximately $48.9 million in SAIL Program funding was provided to 18 existing Guarantee Program properties to serve extremely-low-income households. This allowed the FHFC to match available units with current rental housing needs, while reducing Guarantee Program risk. In the 18 properties awarded SAIL Program funding, there were a total of 5,280 units with 4,667 units set aside as affordable. According to the FHFC, this new financing will ensure that rents on 655 of the 4,667 existing affordable units will be lowered to be affordable to extremely low-income households. An additional $15.9 million in SAIL Program funding was provided as gap financing to 372 new units of which 322 units will be set aside as affordable.[6]

Low Income Housing Tax Credit Program

The competitive (9 percent) and non-competitive (4 percent) Low Income Housing Tax Credit Program provides developers with equity, based on a dollar-for-dollar reduction in federal tax liability for investors in exchange for the acquisition, rehabilitation, and new construction of affordable rental housing. Special consideration is given to properties that target specific demographic groups, such as the elderly, homeless persons, and farmworkers. Additionally, consideration is given to properties that target specific geographic areas, such as the Florida Keys, rural areas, and urban areas.[7]

During 2010, $58.8 million in competitive (9 percent) housing credits were allocated and a total of 3,823 units were funded. Of that total number of units, 3,764 units will be set aside as affordable. In addition, $10.7 million in non-competitive (4 percent) housing credits were allocated and a total of 2,884 units were funded. Of that total number of units, 2,721 units will be set aside as affordable.[8]

Multifamily Mortgage Revenue Bonds

The Multifamily Mortgage Revenue Bond (MMRB) Program uses both taxable and tax-exempt bonds to provide below market rate loans to non-profit and for-profit developers who set aside a certain percentage of their apartment units for low-income families. Proceeds from the sale of these bonds are used to construct or acquire and rehabilitate multifamily rental properties. The MMRB Program application scoring and ranking criteria encourage increased set-asides for low-income households.[9] During 2010, $430.4 million was provided toward affordable rental housing development and 6,319 units were funded. Of that total number of units, 5,897 units will be set aside as affordable.[10]

Florida Affordable Housing Guarantee Program

The Florida Affordable Housing Guarantee Program was created to:[11]

- Stimulate creative private sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing.
- Create security mechanisms to allow lenders to sell affordable housing loans in the secondary market.
- Encourage affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of the program.

“Affordable housing guarantee” means an obligation of the guarantee fund to guarantee the payment of an obligation made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

The FHFC was authorized to issue revenue bonds to establish the guarantee fund. The revenue bonds are primarily payable from and secured by annual debt service reserves, from interest earned on funds

[6] *Id*.
[7] Florida Housing Finance Corporation, *2010 Annual Report*, Multifamily, March 2011, p.6, *available at* http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf.
[8] *Id*.
[9] *Id*.
[10] *Id*.
[11] Section 420.5092(1), F.S.

on deposit in the guarantee fund, from fees, charges, and reimbursements established by the FHFC for the issuance of affordable housing guarantees, and from other revenue sources received by the FHFC and deposited by the FHFC into the guarantee fund for the issuance of affordable housing guarantees. Should the primary revenue sources be insufficient to fully fund the annual debt service reserve, the certified deficiency must be payable from the first proceeds of the documentary stamp tax[12] moneys deposited into the State Housing Trust Fund..

Effect of Proposed Changes

The bill provides that not less than 70 percent of the funds in the SAIL Program Fund in each calendar year must be awarded for constructing new affordable rental housing developments, which the primary source of financing is an allocation of tax exempt private activity bonds issued by the FHFC or by a local or regional agency pursuant to Part VI of ch. 159, F.S.

Development projects located outside of a 2.5 mile radius of a Florida Housing Guarantee Fund Development, which have a short term subordinate mortgage issued by the FHFC are eligible to receive subordinate loan financing through the FHFC. Subordinate loan financing awarded by the FHFC must occur using the process established by law.[13]

The FHFC is directed to generate and distribute an estimate of the total amount of SAIL Program funds available in the calendar year in which the subordinate loan financing is awarded. The FHFC must provide this information prior to the receipt of applications. The amount of program income, including principal and interest must be included in the funds available to be awarded. A rank ordered list of application selected to receive subordinate loan financing must be presented to the FHFC's Board of Directors.

The bill also provides that financial beneficiaries, defined as any principal of a developer or general partner of an applicant, of any development financed in part by the Guarantee Fund that has been foreclosed or is in foreclosure; or has defaulted on a subordinate mortgage on or after July 1, 2011, may not participate in the FHFC's programs for 3 years and must receive approval from the FHFC's board of directors before they may participate in such programs.

B. SECTION DIRECTORY:

Section 1: Creates subsection (9) of s. 420.5087, F.S.; requiring not less than 50 percent of the State Apartment Incentive Loan Program funds to be awarded as subordinate loan financing for the new construction of affordable rental housing developments.

Section 2: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[12] *See* s. 201.15(9)(a) and (10)(a), F.S.
[13] The process that the Florida Housing Finance Corporation is required to follow in order to award state apartment incentive loans is provided in s. 420.5087(6), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that affordable rental developments will be built, developers and members of the construction industry will benefit, as well as those individuals and families receiving safe, decent, affordable housing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because the bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The Florida Housing Finance Corporation may be required to amend its rule governing the SAIL Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 21, 2011, the Economic Affairs Committee adopted a strike-all amendment to require at least 70%, rather than 50%, of the SAIL Program funds to be awarded as subordinate loan financing for the new construction of affordable housing developments of which the primary source of funding is an allocation of tax-exempt bond allocation issued by either Florida Housing or a local and regional housing finance authority.

The amendment also provides that financial beneficiaries, defined as any principal of a developer or general partner of an applicant, of any development financed in part by the Guarantee Fund that has been foreclosed or is in foreclosure; or has defaulted on a subordinate mortgage on or after July 1, 2011, may not participate in the FHFC's programs for 3 years and must receive approval from the FHFC's board of directors before they may participate in such programs.

The analysis has been updated to reflect the strike-all amendment.